

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CR. NO. 1:CR-01-237

V.

(JUDGE KANE)

KEITH SHEARER

(Filed Electronically)

GOVERNMENT RESPONSE TO PRO SE MOTION TO MODIFY SENTENCE

____AND NOW, the United States of America, by its undersigned counsel, submits the following Response the Defendant Pro Se Motion to Modify Sentence:

1. The defendant is currently serving an 8 month sentence imposed following his guilty plea to federal environmental crime and false statement charges.

2. The defendant has now filed a **pro se** motion requesting an early termination of his sentence, citing health problems he is experiencing.

3. While the United States is committed to ensuring that the defendant receives adequate medical care while in custody, the Government does not believe that the release of the defendant is necessary or appropriate at this time.

4. Indeed, the United States submits that federal law would not permit the unilateral modification of the defendant's sentence at this time based solely upon his complaints of poor health. Instead those complaints need to be assessed by the Bureau of

Prisons, which should be the entity making a determination in the first instance regarding whether the defendant's health concerns can be addressed in a prison setting.

5. The Government is taking the liberty of forwarding the defendant's pleading to the Bureau of Prisons, but urges this Court to deny the defendant's request at this time. If the Bureau of Prisons reports that a modification of the defendant's sentence is medically advisable, the Government will promptly notify the Court.

WHEREFORE, for the foregoing reasons, the United States requests that the defendant's motion be denied.

Respectfully submitted

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers. That on December 16, 2005, he served a true and correct copy of the foregoing

GOVERNMENT RESPONSE TO PRO SE MOTION TO MODIFY SENTENCE

by electronic means by sending a copy to each of the e-mail addresses stated below:

Addressee: Thomas Thornton, Esq.
100 Chestnut Street
Harrisburg, PA 17108

and by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the places and addresses stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail in Harrisburg, Pennsylvania.

Addressee: Keith Shearer
P.O. Box 1000
Loretto, PA 15940

S/MARTIN C. CARLSON
MARTIN C. CARLSON
FIRST ASSISTANT U.S. ATTORNEY

Dated: December 16, 2005